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FINANCING OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR GENOCIDE AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF RWANDA AND RWANDAN CITIZENS RESPONSIBLE FOR GENOCIDE AND OTHER SUCH VIOLATIONS COMMITTED IN THE TERRITORY OF NEIGHBOURING STATES BETWEEN 1 JANUARY AND 31 DECEMBER 1994

Report of the Advisory Committee on Administrative and Budgetary Questions

I. INTRODUCTION

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the financing for 1998 of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/C.5/52/13). During its consideration of the matter, the Advisory Committee met with the Prosecutor and the Registrar of the Tribunal and with representatives of the Secretary-General, who provided additional information.

2. The Advisory Committee notes that financial data for the period preceding that of the new budget has been incorporated in the budget report, including expenditure data for 1996 and appropriations for 1997. Furthermore, with regard to expenditures for 1997, the Advisory Committee was provided with a summary of expenditures incurred by the Tribunal for the period from 1 January to 31 August 1997. Accordingly, projected expenditures for the first eight months of 1997 would amount to $27,467,132 against an appropriation of $35,974,800 (net) approved by the General Assembly in its resolutions 51/215 A of 18 December 1996 and 51/215 B of 13 June 1997 for the period from 1 January to 31 December 1997, reflecting an unencumbered balance of $8,507,668. However,

the Advisory Committee was informed that preliminary projections to year end for 1997 indicate that there would be no unencumbered balance by that time.

II. FINANCIAL REQUIREMENTS FOR 1998

3. As indicated in paragraph 9 of the report of the Secretary-General, the overall level of resources proposed for 1998 amount to $58,993,700 gross ($52,856,400 net), reflecting a growth of $16,881,600 net (46.9 per cent) compared with the 1997 appropriation. Tables 1 and 2 of the report provide a summary of the requirements.

4. The proposed staffing table for 1998 comprises 584 assessed budget posts (excluding 6 judges), reflecting an increase of 167 posts over the authorized level for 1997 (165 new temporary posts, the conversion of 2 gratis positions to temporary posts and the reclassification of 6 posts). As requested by the Advisory Committee, details of requests for posts are provided in annex IV to the report of the Secretary-General.

5. The Advisory Committee notes from table 3 of the report of the Secretary-General that as at 3 April 1997, there were 34 gratis personnel serving with the Tribunal. The Advisory Committee was informed that most of the agreements between the Tribunal and the contributing Governments relating to those personnel had expired, only seven gratis personnel currently remained with the Tribunal and that their agreements would lapse by 31 December 1997. The Advisory Committee was also informed that, for 1998, as part of the Secretary-General's policy to phase out the use of gratis personnel, the functions of two of the existing gratis personnel were proposed for conversion to temporary posts. The Advisory Committee was further informed that in order not to disrupt the activities of the office, there might be a need to resort to some further limited use of gratis personnel in early 1998 pending recruitment of regular staff, to be done strictly in accordance with the provisions of General Assembly resolution 51/243 of 15 September 1997 and within the proposed level of posts in the staffing table for 1998.

6. The Advisory Committee recommends acceptance of the new posts requested by the Secretary-General, including the posts to be established as a consequence of the phasing out of gratis personnel.

7. As indicated in table 2 of the report of the Secretary-General, the cost estimates for 1998 for 584 posts amount to $38,732,800 (net of staff assessment). The Advisory Committee notes from paragraph 4 of annex II to the report that the budgetary assumptions for the continuing temporary posts include vacancy rates for 1998 of 5 per cent for the Professional posts and 2.5 per cent for the General Service posts. With regard to the 1998 estimates for the 167 new posts, the provision for 165 new temporary posts was calculated on the basis of a vacancy rate of 50 per cent for Professional posts and 35 per cent for General Service posts, while the estimate for the two gratis positions proposed for conversion to temporary posts were calculated on the basis of a factor of 75 per cent or 25 per cent of full annual costs, reflecting the intention to phase out gratis personnel arrangements and recruit staff during the course of 1998.

8. Upon inquiry, the Advisory Committee was informed that as at 30 September 1997 there were 38 vacant positions, or a vacancy rate of 29 per cent, in the Office of the Prosecutor, against 131 authorized posts and 48 vacant positions or a vacancy rate of 17.5 per cent in the Registry against 274 authorized posts. Taking into account the prior experience of the Tribunal in filling posts, the Advisory Committee believes that it will be very difficult for the Tribunal to fill all new posts in 1998 and that, consequently, the stated assumptions for occupancy of new posts in 1998 should be adjusted.

9. In this connection, the Advisory Committee was informed that, if the turnover rates for Professional and General Service posts were revised from 5 per cent and 2.5 per cent, respectively, to 8 per cent and 5 per cent, the proposed appropriation for 1998 would be reduced by $939,800 gross ($813,000 net); moreover, with respect to the new posts, if the provisions for 165 new temporary posts were calculated on the basis of a vacancy rate of 60 per cent for the Professional posts and 50 per cent for the General Service posts, the proposed appropriation for 1998 would be reduced by $1,276,800 gross ($1,128,400 net). Consequently, on the basis of the revised assumptions, and taking into account the recommendation of the Advisory Committee in paragraph 19 below, the proposed total appropriation for 1998 would amount to $56,736,300 gross ($50,879,100 net).

10. The Advisory Committee notes from paragraph 25 of the report of the Secretary-General that the judges held one plenary session in 1997 and that it is anticipated that there will be two plenary meetings, both to be held at Arusha, United Republic of Tanzania, in 1998.

11. Upon inquiry, the Advisory Committee was informed that the total ex gratia payments to judges of the Tribunal for the period from 26 June 1995 to 18 June 1996, covering the initial period of their appointment but before they took up their posts, amounted to $750,662.84, which was charged to the 1997 appropriation. In this connection, the Advisory Committee recalls paragraph 14 of its ninth report (A/51/7/Add.8 and Corr.1 and 2), in which it expressed serious reservations about the propriety of authorizing the payment of salaries of judges for the period from 26 June 1995 to 19 June 1996. The Advisory Committee recalls paragraph 1 of General Assembly resolution 51/215 B in which the Assembly endorsed the observations and recommendations contained in the report of the Advisory Committee (A/51/7/Add.8 and Corr.1 and 2), subject to the provisions of the resolution. In the circumstances, the Advisory Committee is of the opinion that the ex gratia payments were improper, and recommends that the amounts involved be recovered.

12. The Advisory Committee notes the amount of salary and allowances of judges in paragraph 34 of the report of the Secretary-General. The observations and recommendations of the Advisory Committee on the report of the Secretary-General on conditions of service for the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/52/520) are contained in paragraphs 10 and 11 of its report (A/52/696) on the financing of the International Tribunal for the Former Yugoslavia.

13. With regard to courtroom space, the Advisory Committee was informed that the first courtroom had been built as part of the initial renovation of the

leased premises at the Arusha International Conference Centre. The Advisory Committee was also informed that pending the construction of the second "permanent" courtroom, a temporary courtroom had been built to ensure that each trial chamber had a courtroom. The Advisory Committee was also informed that the second permanent courtroom was under construction and was expected to be completed in early 1998 utilizing funds already appropriated and obligated in 1996; accordingly, its construction would not involve financial implication in 1998. The Advisory Committee was further informed that with two permanent and one temporary courtroom, the Tribunal would have the capacity to accommodate appeals and other court motions and hearings without interrupting the court calendars of the two Trial Chambers. In addition, the temporary courtroom could also be used as a venue for meetings and seminars with simultaneous interpretation.

14. The Advisory Committee was informed that tearing down the temporary courtroom would result in expenditures for the removal of partitions, the sound system and interpretation equipment, and for the alteration of the space for other purposes.

15. As indicated in table 9 of the report of the Secretary-General, the 1998 resource requirements for the Registry amount to $39,835,100 gross ($36,134,700 net), reflecting an increase of $13,971,400 gross ($13,380,500 net) over the 1997 appropriation of $25,863,700 gross ($22,754,200 net). In addition, for 1998, it is estimated that $2,485,300 net would be administered by the Registry as extrabudgetary resources, reflecting an increase of $1,747,900 over the 1997 amount of $737,400.

16. With regard to staff resources for the Registry, the Advisory Committee notes from table 10 of the report of the Secretary-General that 462 posts are proposed (115 Professional, 76 General Service, 14 Field Service, 74 Security Service and 183 local staff), of which 274 are continuing temporary posts, 159 are new temporary posts, 1 is a gratis personnel position that is proposed for conversion to a temporary post and 5 are proposed for reclassification. The Advisory Committee also notes that staffing for the Registry will include 28 extrabudgetary posts, of which 21 are new. The Advisory Committee was provided with detailed organization charts of the Registry's units, reflecting all proposed staff positions.

17. The Advisory Committee notes from paragraph 54 of the report of the Secretary-General that the project for renovating the office space has been put on hold, pending the conclusion of negotiations with the management of the Arusha International Conference Centre for additional space.

18. In connection with office space in Kigali, the Advisory Committee notes from paragraphs 55 and 56 of the report of the Secretary-General that the Tribunal is considering a new building because the Amohoro building and its furniture are dilapidated and because the second property leased by the Tribunal - the communications compound - is only 40 per cent utilized but is leased in its entirety and the landlord is requesting an increase in the rent of roughly $2,000 per month.

19. The Advisory Committee notes from paragraph 62 of the report of the Secretary-General that public information programmes would be provided at four offices: Arusha, Kigali, Nairobi and The Hague. The Advisory Committee also notes from annex IV to the report that with regard to the information office in Nairobi, it is proposed to establish one P-2 post for an information officer and one General Service post. The Advisory Committee recommends that the cost-effectiveness of having separate information infrastructures in Nairobi and The Hague be reviewed. In this connection, the use of new technology, including the Internet (and the establishment of a Web site) should be vigorously explored. Pending this review, the P-2 post and the General Service post should not be established. The consequential reduction in the proposed appropriation would amount to $40,820 gross ($35,900 net).

20. The Advisory Committee notes from paragraphs 58 and 62 (b) (i) a. of the report of the Secretary-General that, as recommended earlier by the Advisory Committee, effective 1 October 1997, the Tribunal received authority, which had been extended to the International Tribunal for the Former Yugoslavia, for the recruitment, placement and promotion of staff in the Professional category and above up to the D-1 level.

21. The Advisory Committee also notes from paragraph 59 of the report of the Secretary-General that the Tribunal will take on additional functions in the area of finance and accounting, including the processing of the payroll and other entitlements for international staff and consolidating all finance and accounting functions at Arusha.

22. With respect to internal and external audit requirements for 1998, the Advisory Committee notes that provisions of $18,400 are requested for travel of the Office of Internal Oversight Services in connection with the audit of the Tribunal and $45,500 for external audit fees for the Board of External Auditors (A/C.5/52/13, paras. 66 (c) and 67 (f)); the Advisory Committee notes, however, that with respect to the audit requirements of the International Tribunal for the Former Yugoslavia, a provision of only $24,100 is requested for 1998 for travel of the External Board of Auditors (A/C.5/52/4, para. 72 (c)). The Advisory Committee is of the opinion that the budgeting of internal and external audit requirements of the Tribunals should have been better explained in the reports of the Secretary-General. The Advisory Committee requests that this be done in the next budget submissions on the Tribunals.

23. Paragraphs 23 to 27 of annex IV to the report of the Secretary-General discuss support being provided to defence and prosecution witnesses. The issue of possible requirements for long-term witness protection does not appear to be adequately addressed in the present budget submission. The Advisory Committee requests the Tribunal to analyse fully the requirements related to witness protection in the next budget submission. The next budget submission should also contain an analysis of long-term requirements for incarceration of convicts, including possible solutions.

III. CONCLUSIONS

24. On the basis of the comments and conclusions in paragraphs 8 and 19 above, the Advisory Committee recommends that the General Assembly appropriate to the Special Account for the International Criminal Tribunal for Rwanda, the amount of $56,736,300 gross ($50,879,100 net) for the period from 1 January to 31 December 1998.